

Article - Environment

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§4-412.

(a) (1) Whenever the Department believes a violation of any provision of this subtitle or any rule or regulation has occurred, it shall cause a written complaint to be served upon the alleged violator. The complaint shall specify the provision of law or rule or regulation allegedly violated and the alleged fact that constitutes the violation. Subsequent to or concurrent with service of the complaint as provided in subsection (c) of this section, the Department may exercise one of the following options:

(i) Issue an order requiring necessary corrective action be taken within the time prescribed in its order. Any person named in the order may request in writing a hearing before the Department not later than ten days after the date the order is served, in which case a hearing shall be scheduled within ten days from receipt of the request. A decision shall be rendered within ten days from the date of the hearing;

(ii) Require the alleged violator to file a written report regarding the alleged violation;

(iii) Require the alleged violator to appear before the Department at a time and place the Department specifies to answer the charge outlined in the complaint; or

(iv) Require the alleged violator to file a written report regarding the alleged violation and appear before the Department at a time and place the Department specifies to answer the charges outlined in the complaint.

(2) If the Department exercises the option provided by paragraph (1)(ii) of this subsection, the alleged violator may request in writing a hearing before the Department not later than ten days after the date that notice of the requirement of the written report is served. The appearance of the alleged violator before the Department under the options provided by paragraph (1)(iii) or (iv) of this subsection constitutes an administrative hearing, and the party has the right of any party in a contested case provided in §§ 10-205, 10-208, and 10-209 of the State Government Article. If the Department exercises the option provided by paragraph (1)(ii), (iii), or (iv) of this subsection, it may not issue an order requiring corrective action to be taken as a result of the alleged violation before expiration of the time set for filing any report and holding any hearing required under these paragraphs. Thereafter, the Department may issue an order requiring necessary corrective action be taken within

the time prescribed in the order. A person is not entitled to a hearing before the Department as a result of this order. Notice of a hearing or of a requirement that a written report be filed shall be served on the alleged violator in accordance with the provisions of subsection (c) of this section not less than ten days before the time set for the hearing or filing of a report. Every order the Department issues under the provisions of this section shall be served on the person affected in accordance with the provisions of subsection (c) of this section. The order shall become effective immediately according to its terms upon service.

(b) A person aggrieved by an order or permit issued may obtain immediate judicial review under the provisions of §§ 10–222 and 10–223 of the State Government Article and the Maryland Rules.

(c) Except as otherwise provided, any notice, order, or other instrument issued by or under authority of the Department may be served in accordance with § 1–204 of this article or by publication on any person affected. If service is made by certified mail, return receipt requested, proof of service may be made by the sworn statement or affidavit of the person who mailed the notice, order, or other instrument. The sworn statement or affidavit shall be filed with the Department.

(d) A verbatim record of the proceedings of hearings may be taken when necessary or advisable by the Department. A subpoenaed witness shall receive the same fees and mileage as in any civil action. If a witness refuses to obey a notice of hearing or subpoena issued under this section, any circuit court, upon the application of the Department, may issue an order requiring the person to appear, testify, or produce evidence as required. The failure to obey a court order may be punished by the court as contempt.

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